

Union Calendar No. 447

103D CONGRESS
2D SESSION

H. R. 5050

[Report No. 103-801]

A BILL

To restore Federal recognition to the Paskenta
Band of Nomlaki Indians of California.

OCTOBER 3, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 1994

Mr. FAZIO (for himself, Mr. MILLER of California, and Mr. RICHARDSON) introduced the following bill; which was referred to the Committee on Natural Resources

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[Omit the part struck through]

A BILL

To restore Federal recognition to the Paskenta Band of
Nomlaki Indians of California.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Paskenta Band Res-
5 toration Act”.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act:

3 (1) The term “Tribe” means the Paskenta
4 Band of Nomlaki Indians of the Paskenta Rancheria
5 of California.

6 (2) The term “Secretary” means the Secretary
7 of the Interior.

8 (3) The term “Interim Council” means the gov-
9 erning body of the Tribe specified in section 7.

10 (4) The term “member” means an individual
11 who meets the membership criteria under section
12 6(b).

13 (5) The term “State” means the State of Cali-
14 fornia.

15 (6) The term “reservation” means those lands
16 acquired and held in trust by the Secretary for the
17 benefit of the Tribe pursuant to section 5.

18 (7) The term “service area” means the counties
19 of Tehama and Glenn, in the State of California.

20 **SEC. 3. RESTORATION OF FEDERAL RECOGNITION, RIGHTS,**
21 **AND PRIVILEGES.**

22 (a) **FEDERAL RECOGNITION.**—Federal recognition is
23 hereby extended to the Tribe. Except as otherwise pro-
24 vided in this Act, all laws and regulations of general appli-
25 cation to Indians and nations, tribes, or bands of Indians

1 that are not inconsistent with any specific provision of this
2 Act shall be applicable to the Tribe and its members.

3 (b) RESTORATION OF RIGHTS AND PRIVILEGES.—
4 Except as provided in subsection (d), all rights and privi-
5 leges of the Tribe and its members under any Federal
6 treaty, Executive order, agreement, or statute, or under
7 any other authority which were diminished or lost under
8 the Act of August 18, 1958 (Public Law 85–671; 72 Stat.
9 619), are hereby restored and the provisions of such Act
10 shall be inapplicable to the Tribe and its members after
11 the date of enactment of this Act.

12 (c) FEDERAL SERVICES AND BENEFITS.—Without
13 regard to the existence of a reservation, the Tribe and its
14 members shall be eligible, on and after the date of enact-
15 ment of this Act, for all Federal services and benefits fur-
16 nished to federally recognized Indian tribes or their mem-
17 bers. In the case of Federal services available to members
18 of federally recognized Indian tribes residing on a reserva-
19 tion, members of the Tribe residing in the Tribe’s service
20 area shall be deemed to be residing on a reservation.

21 (d) HUNTING, FISHING, TRAPPING, AND WATER
22 RIGHTS.—Nothing in this Act shall expand, reduce, or af-
23 fect in any manner any hunting, fishing, trapping, gather-
24 ing, or water right of the Tribe and its members.

1 (e) INDIAN REORGANIZATION ACT APPLICABILITY.—
2 The Act of June 18, 1934 (25 U.S.C. 461 et seq.), shall
3 be applicable to the Tribe and its members.

4 (f) CERTAIN RIGHTS NOT ALTERED.—Except as spe-
5 cifically provided in this Act, nothing in this Act shall alter
6 any property right or obligation, any contractual right or
7 obligation, or any obligation for taxes levied.

8 **SEC. 4. ECONOMIC DEVELOPMENT.**

9 (a) PLAN FOR ECONOMIC DEVELOPMENT.—The Sec-
10 retary shall—

11 (1) enter into negotiations with the governing
12 body of the Tribe with respect to establishing a plan
13 for economic development for the Tribe;

14 (2) in accordance with this section and not later
15 than two years after the adoption of a tribal con-
16 stitution as provided in section 8, develop such a
17 plan; and

18 (3) upon the approval of such plan by the gov-
19 erning body of the Tribe, submit such plan to the
20 Congress.

21 (b) RESTRICTIONS.—Any proposed transfer of real
22 property contained in the plan developed by the Secretary
23 under subsection (a) shall be consistent with the require-
24 ments of section 5.

1 **SEC. 5. TRANSFER OF LAND TO BE HELD IN TRUST.**

2 (a) LANDS TO BE TAKEN IN TRUST.—The Secretary
3 shall accept any real property located in Tehama County,
4 California, for the benefit of the Tribe if conveyed or oth-
5 erwise transferred to the Secretary if, at the time of such
6 conveyance or transfer, there are no adverse legal claims
7 to such property, including outstanding liens, mortgages,
8 or taxes owned. The Secretary may accept any additional
9 acreage in the Tribe's service area pursuant to the author-
10 ity of the Secretary under the Act of June 18, 1934 (25
11 U.S.C. 461 et seq.).

12 (b) LANDS TO BE PART OF THE RESERVATION.—
13 Subject to the conditions imposed by this section, any real
14 property conveyed or transferred under this section shall
15 be taken in the name of the United States in trust for
16 the Tribe and shall be part of the Tribe's reservation.

17 ~~(c) LANDS TO BE NONTAXABLE.—Any real property~~
18 ~~conveyed or transferred to the Secretary and taken into~~
19 ~~trust for the benefit of the Tribe under this section shall~~
20 ~~be exempt from all local, State, and Federal taxation as~~
21 ~~of the date of such transfer.~~

22 **SEC. 6. MEMBERSHIP ROLLS.**

23 (a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—
24 Within one year after the date of the enactment of this
25 Act, the Secretary shall, after consultation with the Tribe,
26 compile a membership roll of the Tribe.

1 (b) CRITERIA FOR MEMBERSHIP.—(1) Until a tribal
2 constitution is adopted pursuant to section 8, an individ-
3 ual shall be placed on the membership roll if such individ-
4 ual is living, is not an enrolled member of another feder-
5 ally recognized Indian tribe, is of Nomlaki Indian ances-
6 try, and if—

7 (A) such individual's name was listed on the
8 Paskenta Indian Rancheria distribution roll compiled
9 on February 26, 1959, by the Bureau of Indian Af-
10 fairs and approved by the Secretary of the Interior
11 on July 7, 1959, pursuant to Public Law 85–671;

12 (B) such individual was not listed on the
13 Paskenta Indian Rancheria distribution list, but met
14 the requirements that had to be met to be listed on
15 the Paskenta Indian Rancheria list;

16 (C) such individual is identified as an Indian
17 from Paskenta in any of the official or unofficial
18 rolls of Indians prepared by the Bureau of Indian
19 Affairs; or

20 (D) such individual is a lineal descendant of an
21 individual, living or dead, identified in subparagraph
22 (A), (B), or (C).

23 (2) After adoption of a tribal constitution pursuant
24 to section 8, such tribal constitution shall govern member-
25 ship in the Tribe.

1 (c) CONCLUSIVE PROOF OF PASKENTA INDIAN AN-
2 CESTRY.—For the purpose of subsection (b), the Secretary
3 shall accept any available evidence establishing Paskenta
4 Indian ancestry. The Secretary shall accept as conclusive
5 evidence of Paskenta Indian ancestry, information con-
6 tained in the census of the Indians in and near Paskenta,
7 prepared by Special Indian Agent John J. Terrell, in any
8 other roll or census of Paskenta Indians prepared by the
9 Bureau of Indian Affairs, and in the Paskenta Indian
10 Rancheria distribution list, compiled by the Bureau of In-
11 dian Affairs on February 26, 1959.

12 **SEC. 7. INTERIM GOVERNMENT.**

13 Until a new tribal constitution and bylaws are adopt-
14 ed and become effective under section 8, the Tribe's gov-
15 erning body shall be an Interim Council. The initial mem-
16 bership of the Interim Council shall consist of the mem-
17 bers of the Tribal Council of the Tribe on the date of the
18 enactment of this Act, and the Interim Council shall con-
19 tinue to operate in the manner prescribed for the Tribal
20 Council under the tribal constitution adopted December
21 18, 1993. Any new members filling vacancies on the In-
22 terim Council shall meet the membership criteria set forth
23 in section 6(b) and be elected in the same manner as are
24 Tribal Council members under the tribal constitution
25 adopted December 18, 1993.

1 **SEC. 8. TRIBAL CONSTITUTION.**

2 (a) ELECTION; TIME AND PROCEDURE.—Upon the
3 completion of the tribal membership roll under section
4 6(a) and upon the written request of the Interim Council,
5 the Secretary shall conduct, by secret ballot, an election
6 for the purpose of adopting a constitution and bylaws for
7 the Tribe. The election shall be held according to section
8 16 of the Act of June 18, 1934 (25 U.S.C. 476), except
9 that absentee balloting shall be permitted regardless of
10 voter residence.

11 (b) ELECTION OF TRIBAL OFFICIALS; PROCE-
12 DURES.—Not later than 120 days after the Tribe adopts
13 a constitution and bylaws under subsection (a), the Sec-
14 retary shall conduct an election by secret ballot for the
15 purpose of electing tribal officials as provided in such trib-
16 al constitution. Such election shall be conducted according
17 to the procedures specified in subsection (a) except to the
18 extent that such procedures conflict with the tribal con-
19 stitution.

20 **SEC. 9. GENERAL PROVISION.**

21 The Secretary may promulgate such regulations as
22 may be necessary to carry out the provisions of this Act.